

Regular Session, 2010

SENATE BILL NO. 168

BY SENATOR WALSWORTH

CEMETERIES. Provides for extension of time for the construction of cemetery facilities due to force majeure. (8/15/10)

AN ACT

To amend and reenact R.S. 8:606(B) and (C), and 706 and to enact R.S. 8:1(22.1) and 606(D), relative to cemeteries; to provide for commencement and completion requirements of mausoleums or similar structures; to provide for commencement and the completion requirements of improvements on undeveloped cemetery property; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 8:606(B) and (C), and 706 are hereby amended and reenacted and R.S. 8:1(22.1) and 606(D) are hereby enacted to read as follows:

§1. Definitions

As used in this Title the following words and phrases, unless the context otherwise clearly indicates, shall have the meaning hereinafter ascribed to each:

* * *

(22.1) "Force majeure" means any of the following circumstances:

(a) A major storm, major flood, or other similar natural disaster.

(b) A major accident beyond the cemetery authority's control and not ultimately found to be the fault of the cemetery authority.

1 (c) The delay by the federal government or any of its agencies, or the
2 state or any of its agencies or political subdivisions in granting necessary
3 permits.

4 (d) A valid order of any federal or state court of competent jurisdiction
5 that prevents the timely completion of a project.

6 * * *

7 §606. Commencement and completion requirements

8 * * *

9 B. A cemetery authority shall be required to commence construction
10 pursuant to the plans filed with the board within forty-eight months after the date of
11 the first sale of each section of the structure in which sales, contracts for sales, or
12 reservations for sales are being made, and the construction of each such section shall
13 be completed within five years after the date of the said first sale. However,
14 extensions not to exceed one year, may be granted by the board for reasonable cause.

15 Further extensions may be granted pursuant to Subsection C of this Section.

16 If the structure is not completed within the time specified herein, all monies paid plus
17 any monetary penalties assessed by the board shall be paid to the purchasers, unless
18 the cemetery authority delivers a completed interment space acceptable to the
19 purchaser in lieu of the interment space purchased.

20 C. The board, at its discretion, may grant an extension to the time
21 period set forth in Subsection B of this Section based upon the occurrence of a
22 force majeure event. Such an extension shall be granted only for reasonable
23 cause. Each force majeure event shall be treated as a separate incident.

24 ~~C.D.~~ Failure to commence or complete a section within the time herein
25 required shall be a misdemeanor punishable by fine of not less than two hundred
26 dollars nor more than one thousand dollars or by imprisonment of not less than thirty
27 days nor more than one year, or both.

28 * * *

29 §706. Commencement and completion requirements

1 A. A cemetery authority shall commence the installation of the necessary
 2 improvements to the undeveloped land in which sales, contracts for sales, or
 3 reservations for sales are being made, within twenty-four months after the date of the
 4 first such sale. The completion of all such necessary improvements shall be no later
 5 than forty-eight months after the date of the first sale. However, extensions for
 6 completion, not to exceed six months, may be granted by the board for reasonable
 7 cause, but in no event shall any such extension exceed one year-, **with the exception**
 8 **of extensions provided pursuant to Subsection B of this Section.**

9 **B. The board, at its discretion, may grant an extension to the time period**
 10 **set forth in Subsection A of this Section based upon the occurrence of a force**
 11 **majeure event. Such an extension shall be granted only for reasonable cause.**
 12 **Each force majeure event shall be treated as a separate incident.**

13 ~~B.C.~~ Failure to commence and/or complete development within the time
 14 herein required shall be a misdemeanor punishable by fine of not less than two
 15 hundred dollars nor more than one thousand dollars or by imprisonment of not less
 16 than thirty days nor more than one year, or both.

The original instrument was prepared by Alan Miller. The following digest,
 which does not constitute a part of the legislative instrument, was prepared
 by McHenry Lee.

DIGEST

Walsworth (SB 168)

Proposed law defines "force majeure" as any of the following circumstances:

1. A major storm, major flood, or other similar natural disaster;
2. A major accident beyond the cemetery authority's control and not ultimately found to be the fault of the cemetery authority;
3. The delay by the federal government or any of its agencies, or the state of Louisiana or any of its agencies or political subdivisions in granting necessary permits; or
4. A valid order of any federal or state court of competent jurisdiction that prevents the timely completion of a project.

Present law requires a cemetery authority to commence construction of a mausoleum or similar structure within 48 months after the first date of sale of a section of the new cemetery structure, with an extension of one additional year for reasonable cause.

Proposed law allows for further extensions to be granted based on the occurrence of a force

majeure event.

Present law requires a cemetery authority to commence the installation of necessary improvements to undeveloped land within 24 months after the first date of sale in the new section, with extensions not to exceed one year.

Proposed law allows for further extensions to be granted based on the occurrence of a force majeure event.

Effective August 15, 2010.

(Amends R.S. 8:606(B) and (C), and 706; adds R.S. 8:1(22.1) and 606 (D))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Legislative Bureau technical amendments.